

EXHIBIT 51

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Page 1

H I G H L Y C O N F I D E N T I A L
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----x
UNITED STATES, et al.,

Plaintiffs,

vs.

Case No.

1:23-cv-000108

GOOGLE LLC,

Defendant.

-----x
HIGHLY CONFIDENTIAL
REMOTE/ORAL/WEB VIDEOCONFERENCE
VIDEOTAPED DEPOSITION OF JAMES GLOGOVSKY
Friday, August 25, 2023
9:11 a.m.

Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

Job No. CS6072653

	Page 2	Page 4
1		1
2		2 APPEARANCES (Continued):
3		3
4		4 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
5		5 Attorneys for Defendant Google LLC
6		6 1285 Avenue of the Americas
7		7 New York, New York 10019
8	August 25, 2023	8 BY: ERIN J. MORGAN, ESQ.
9	9:11 a.m.	9 ELIZABETH NORFORD, ESQ.
10		10
11		11
12	HIGHLY CONFIDENTIAL	12 THE NEW YORK TIMES
13	Remote/Oral/Web Videoconference	13 Attorney for The New York Times and the
14	Videotaped Deposition of JAMES	14 Deponent
15	GLOGOVSKY, held via Zoom Web	15 620 Eighth Avenue
16	Videoconference, pursuant to subpoena,	16 New York, New York 10018
17	before Jennifer Ocampo-Guzman, a	17 BY: DEMETRI BLAISDELL, ESQ.
18	Certified Realtime Shorthand Reporter	18
19	and Notary Public of the State of New	19
20	Jersey.	20 ALSO PRESENT:
21		21 MARC FRIEDMAN, Videographer
22		22
23		23
24		24
25		25
	Page 3	Page 5
1	A P P E A R A N C E S :	1 HIGHLY CONFIDENTIAL
2		2 THE VIDEOGRAPHER: Good morning.
3		3 We are going on the record at 9:11 a.m.
4	UNITED STATES DEPARTMENT OF JUSTICE	4 on Friday, August 25, 2023. Please note
5	Attorneys for Plaintiff United States	5 this deposition is being conducted
6	325 7th Street, Suite 300	6 virtually. Quality of recording depends
7	Washington, DC 20004	7 on the quality of the camera and
8	BY: JEFFREY VERNON, ESQ.	8 internet connection of all participants.
9	DIANA HENRY, ESQ.	9 What is heard from the witness and seen
10	RACHEL HANSEN, ESQ.	10 on screen is what will be recorded.
11	LEVI MARKS, ESQ.	11 Audio and video recording will continue
12		12 to take place unless all parties agree
13	NEW YORK STATE OFFICE OF THE ATTORNEY	13 to go off the record. This is media
14	GENERAL	14 unit number 1 of the video-recorded
15	Attorney for Plaintiff State of New York	15 deposition of James Glogovsky in the
16	28 Liberty Street	16 matter of United States, et al., versus
17	New York, New York 10005	17 Google LLC. This case is filed in the
18	BY: MORGAN FEDER, ESQ.	18 United States District Court, Eastern
19		19 District of Virginia, Alexandria
20		20 division, case number 1:23-CV-00108.
21		21 My name is Marc Friedman. I'm the
22		22 certified video legal specialist and
23		23 your court reporter today is Jennifer
24		24 Guzman and we are both from the firm of
25		25 Veritext Legal Solutions. I'm not

2 (Pages 2 - 5)

Veritext Legal Solutions

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<p style="text-align: right;">Page 138</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 through that, that's fine, if you want 3 to not do that, that's also fine. 4 MS. MORGAN: I mean I don't think 5 that there is a foundation issue. If 6 you want to explain your issue, I'm 7 happy to try to cure it. I just don't 8 understand what it is. 9 MR. VERNON: Sure. I will try to 10 be brief. So as I read the e-mail, 11 Google conducted an experiment and so my 12 objection, you know, it wasn't 13 Mr. Glogovsky or The New York Times that 14 conducted the experiment. So my 15 objection in general, at least the 16 foundation part of it before, was that 17 you haven't shown to Mr. Glogovsky he 18 knows about the reason why the 19 experiment was conducted or how it was 20 conducted or what it was shown, a lot of 21 his answers were phrased as, you know, 22 based on this e-mail, I think X, which 23 suggested to me that he may not have 24 been personally involved. Again, I'm 25 happy -- you may be able to walk through</p>	<p style="text-align: right;">Page 140</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 A F T E R N O O N S E S S I O N 3 (Time noted: 1:17 p.m.) 4 THE VIDEOGRAPHER: The time is 1:17 5 and we are back on the record. 6 MS. MORGAN: I am going to reserve 7 the rest of my time. So for now, 8 Mr. Glogovsky, thank you, and I'm going 9 to pass you to Mr. Vernon for continued 10 questioning. 11 MR. VERNON: Okay. Thank, you 12 Mr. Glogovsky, for bearing with us. 13 J A M E S G L O G O V S K Y, resumed. 14 EXAMINATION BY 15 MR. VERNON: 16 Q. Let me first ask you about the 17 publisher ad servers that The New York Times 18 has used. Does that make sense? 19 A. Yes. 20 MS. MORGAN: Object to form. 21 Q. Today, The New York Times uses DFP 22 from Google as its publisher ad server; is 23 that right? 24 MS. MORGAN: Object to form. 25 A. No, we use multiple ad servers</p>
<p style="text-align: right;">Page 139</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 it and show it, but that was the basis 3 for the objection. 4 MS. MORGAN: I guess we can go off 5 the record and I can reread the record 6 again and see if I agree with you. So 7 let's do that. 8 THE VIDEOGRAPHER: Standby, please. 9 The time is 12:35. We are going off the 10 record. One second. 11 (Lunch recess taken at 12:35 p.m.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 141</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 across our overall business. 3 Q. Today for display The New York 4 Times uses Google's DFP as its publisher ad 5 server; is that right? 6 MS. MORGAN: Object to the form. 7 A. Yes. 8 Q. Prior to using DFP as The New York 9 Times' publisher ad server, The New York 10 Times used a publisher ad server that it had 11 built and operated itself; is that right? 12 MS. MORGAN: Object to the form, 13 leading. 14 A. Yes, that's correct. 15 Q. I am going to reask. 16 Before using DFP as its publisher 17 ad server, what did The New York Times use as 18 its publisher ad server? 19 A. The New York Times used a 20 proprietary ad server to fulfill our ads 21 across our properties before Google Ad 22 Manager or DFP. 23 Q. And who built and operated that 24 proprietary ad server? 25 A. The New York Times resources and</p>

<p style="text-align: right;">Page 146</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 MS. MORGAN: Objection to form. 3 A. Sorry. Can you clarify the 4 question? 5 Q. Sure. 6 When The New York Times switched 7 from using its proprietary publisher ad 8 server for display to using Google's DFP as 9 its publisher ad server for display, what 10 impact, if any, did it have on the amount of 11 revenue that The New York Times received from 12 Google's AdX? 13 A. Switching to Google Ad Manager 14 allowed us to operate with programmatic 15 partners more effectively in the now modern 16 space of programmatic, historically 17 programmatic was at the beginning of the 18 programmatic lifespan, it was a tag-based 19 solution which was in efficient and 20 ineffective and switching to Google Ad 21 Manager allowed us to work with more partners 22 more effectively and utilize features that 23 were not available within our own proprietary 24 ad server. 25 Q. When you mentioned a tag-based</p>	<p style="text-align: right;">Page 148</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 MS. MORGAN: Objection to form, 3 lacks foundation. 4 A. A tagged-based solution is not an 5 exchange and it would be -- it would not be 6 as effective. 7 Q. Why is a tagged-based system for 8 display not as effective in your opinion? 9 MS. MORGAN: Objection, form. 10 MR. BLAISDELL: Object to the form. 11 A. The tagged-based solution is not as 12 effective because when the specific tag is 13 entered into the ad server, it will be called 14 by the ad server and it may win, but a bid 15 may not be returned or the bid may not be 16 won, within the tag, and then it would go 17 unfilled and there would be essentially a 18 blank space and the publisher would not earn 19 revenue on that. 20 Q. Let me go back to another question. 21 When The New York Times switched 22 from using its proprietary publisher ad 23 server for display to using Google's 24 publisher ad server, what effect, if any, did 25 that have on the amount of revenue The New</p>
<p style="text-align: right;">Page 147</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 system, what were you referring to? 3 A. In the past, early days in 4 programmatic, the programmatic partner, 5 whether that be a network or a specific 6 advertiser that wanted to create a 7 programmatic-ish relationship, they would 8 send us a creative tag that would be placed 9 into the ad server and then submit bids 10 within that tag, but that did not mean that 11 that programmatic bid would win, and 12 ultimately making that impression unfilled 13 and not being monetized for the publisher, 14 which would then put the revenue at a 15 deficit. The modern programmatic space now 16 allows for more bids to be submitted, and 17 then fill when something chooses not to win 18 the bid, or that's not the right audience for 19 it, that they did not compete, compete to win 20 the CPM. 21 MR. BLAISDELL: I'll just object to 22 the form of the last question. 23 Q. Under tagged-based bidding for 24 display in multiple exchanges submit realtime 25 bids for the same impression?</p>	<p style="text-align: right;">Page 149</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL 2 York Times got from Google's AdX? 3 MS. MORGAN: Objection to form. 4 A. I cannot speak to the specific 5 numbers off the top of my head, but switching 6 to Google Ad Manager allowed us to 7 incorporate programmatic more fully into our 8 advertising business, and resulted in an 9 increase in programmatic revenue and the 10 overall revenue to the bottom line. 11 Q. Let me turn back to The New York 12 Times' proprietary publisher ad server. 13 What disadvantages, if any, are 14 there to The New York Times using a publisher 15 ad server for display that it has built and 16 operated itself? 17 MR. BLAISDELL: Object to form. 18 MS. MORGAN: Objection to the form. 19 A. Just to clarify, disadvantages? 20 Q. Right. 21 A. Maintaining ad technology that is 22 homegrown, built internally, whether that be 23 an ad server, has several disadvantages. 24 One, the operational support and 25 infrastructure in capital resources required</p>

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1	GLOGOVSKY - HIGHLY CONFIDENTIAL	
2	will reserve the rest of my time to use	1 STATE OF _____)
3	then.	2)ss
4	MR. VERNON: Thank you	3 COUNTY OF _____)
5	Mr. Glogovsky, to Demetri and the court	4
6	reporter, Google's counsel and	5
7	everybody. Definitely appreciate it.	6
8	It's been a long day and we thank you	7 I, JAMES GLOGOVSKY, the witness
9	for your time.	8 herein, having read the foregoing
10	MS. MORGAN: I second that. Thank	9 testimony of the pages of this
11	you. I know it's painful to sit for a	10 deposition, do hereby certify it to be a
12	deposition, especially on a summer	11 true and correct transcript, subject to
13	Friday, and we really appreciate the	12 the corrections, if any, shown on the
14	time.	13 attached page.
15	MR. BLAISDELL: Sorry. Just before	14
16	we go off the record, I will also note	15
17	that The Times also objects to	16 JAMES GLOGOVSKY
18	Ms. Morgan's attempt to reserve time for	17
19	some subsequent deposition. We've made	18 Sworn and subscribed to before
20	the witness available now for the time	19 me, this day of
21	that the parties were permitted to	20 , 2023.
22	examine him, and it's our position that	21
23	there will be no further deposition for	22 Notary Public
24	no further questioning by either party	23
25	to this case.	24
		25 Job No. CS6072653
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1	GLOGOVSKY - HIGHLY CONFIDENTIAL	
2	THE VIDEOGRAPHER: Okay to close	1
3	the record?	2 C E R T I F I C A T E
4	MS. MORGAN: Yes, we can close it.	3 STATE OF NEW JERSEY)
5	THE VIDEOGRAPHER: Standby. This	4 : ss.
6	concludes today's deposition given by	5 COUNTY OF MIDDLESEX)
7	James Glogovsky. The number of media	6 I, Jennifer Ocampo-Guzman, a
8	units used is six and will be retained	7 Certified Realtime Shorthand Reporter and
9	by Veritext Legal Solutions. We are	8 Notary Public within and for the State of New
10	going off the record at 5:26 p.m.,	9 Jersey, do hereby certify:
11	Eastern Daylight Time. Thank you,	10 That JAMES GLOGOVSKY, the witness
12	everybody. Have a great weekend. Nice	11 whose deposition is hereinbefore set forth,
13	working with you.	12 was duly sworn, via remote/oral/web
14	(Time noted: 5:26 p.m.)	13 videoconference, and that such deposition is
15		14 a true record of the testimony given by the
16		15 witness.
17		16 I further certify that I am not
18		17 related to any of the parties to this action
19		18 by blood or marriage, and that I am in no
20		19 way interested in the outcome of this
21		20 matter.
22		21 IN WITNESS WHEREOF, I have
23		22 hereunto set my hand this 27th day of August
24		23 2023.
25		24
		25 <i>J. Ocampo-Guzman</i> JENNIFER OCAMPO-GUZMAN, CRR, CLR